

12-135 OXFORD HEALTH PLANS LLC V. SUTTER

DECISION BELOW: 675 F.3d 215

LOWER COURT CASE NUMBER: 11-1773

QUESTION PRESENTED:

In *Stolt-Nielsen v. AnimalFeeds International Corp.*, 130 S. Ct. 1758, 1776 (2010), this Court made clear that "class-action arbitration changes the nature of arbitration to such a degree that it cannot be presumed the parties consented to it by simply agreeing to submit their disputes to arbitration." In this case, an arbitrator concluded that the parties affirmatively consented to class arbitration on the basis of a contract provision stating: "No civil action concerning any dispute arising under this Agreement shall be instituted before any court, and all such disputes shall be submitted to final and binding arbitration." The question presented is:

Whether an arbitrator acts within his powers under the Federal Arbitration Act (as the Second and Third Circuits have held) or exceeds those powers (as the Fifth Circuit has held) by determining that parties affirmatively "*agreed to authorize* class arbitration," *Stolt-Nielsen*, 130 S. Ct. at 1776, based solely on their use of broad contractual language precluding litigation and requiring arbitration of any dispute arising under their contract.

CERT. GRANTED 12/7/2012